

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2004-02

**IMMEDIATE GROUND AND SURFACE WATER ACTIONS AND
LONG-TERM CONJUNCTIVE MANAGEMENT ON THE EASTERN SNAKE PLAIN
AQUIFER**

WHEREAS, water in Idaho represents the lifeblood of our State's economy, particularly agriculture in southern Idaho and the aquaculture industry in the Thousand Springs area; and

WHEREAS, the water supply of the Eastern Snake Plain Aquifer ("ESPA") is hydraulically-connected to the Snake River and tributary surface water sources; and

WHEREAS, discharges from the Thousand Springs area have diminished and are expected to be further diminished primarily because of significant reductions in incidental recharge of the ESPA and the last four consecutive years of drought; and

WHEREAS, conjunctive administration of water rights from the ESPA and hydraulically-connected surface water sources must be achieved in a manner consistent with Idaho law implementing the prior appropriation doctrine; and

WHEREAS, the state of Idaho has dedicated significant resources and has made continual progress over the past two decades toward the goal of achieving full conjunctive administration of rights to the use of interconnected surface and ground waters within the Eastern Snake Plain consistent with Idaho law and available information; and

WHEREAS, the progress includes issuance of partial decrees for a substantial number of the previously unadjudicated water rights claimed in the pending Snake River basin adjudication; the formation of ground water districts pursuant to Chapter 52, Title 42, Idaho Code; the formation and operation of water districts pursuant to Chapter 6, Title 42, Idaho Code, to administer rights to the use of ground water; and reformulation of the computer model used to simulate the effects of ground water withdrawals from the Eastern Snake Plain Aquifer upon hydraulically-connected reaches of the Snake River and other investigations; and

WHEREAS, the health and stability of the ESPA is essential for the State's municipalities, agricultural community and the economic vitality of southern Idaho; and

WHEREAS, on March 20, 2004, a one-year agreement containing significant immediate actions to address declining surface water supplies dependent on the ESPA was reached with the Governor, the Idaho State Legislature, the surface and ground water users, the aquaculture interests and other important water users aimed at avoiding significant curtailment of water use for a one-year period from March 15, 2004 through March 15, 2005; and

WHEREAS, in order to implement the actions called for in the agreement and in House Bills 836, 843, and 848 as enacted by the Second Regular Session of the Fifty-seventh Idaho Legislature and signed into law on this day, the Executive Branch must clearly set forth its commitment for immediate and long-term planning to provide certainty for the economy in southern Idaho.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order effective immediately that:

- 1. The Director of the Department of Water Resources hereby continue, until further notice, the amended moratorium on ground water development dated April 30, 1993, as it applies to the ESPA; and*
- 2. The Department of Water Resources, in consultation with the Governor, develop a long-term management strategy for conjunctive management of surface and ground water sources, which plan shall:*

- a. *Seek funding through the Department of Interior's 2025 Grant Program and other federal funding sources;*
 - b. *Explore constructing additional storage for surface water, including bonding through the Idaho Water Resource Board, to be provided by increasing the height of Minidoka Dam in cooperation with the Bureau of Reclamation;*
 - c. *Effectuate land exchanges or acquisition of federal lands suitable for recharge from federal agencies, specifically the Bureau of Land Management;*
 - d. *Seek assistance and support from the federal government to ensure appropriate recharge of the ESPA;*
 - e. *Initiate a negotiated rulemaking for review and modification of the existing conjunctive management rules, as determined to be needed and appropriate;*
 - f. *Coordinate and consult with the Governor's Office and other appropriate executive branch agencies on all aspects of these actions, including expenditures; and*
 - g. *Ensure that its policies and procedures facilitate and support the goals and objectives of this Executive Order.*
3. *The Department of Commerce, in consultation with the Governor, shall immediately:*
 - a. *Develop a project selection process for dispensing grant moneys dedicated to developing water management and conservation infrastructure with the objective of promoting a more stable supply of spring flows from the ESPA for water quality dependent uses;*
 - b. *Strategize and consult with businesses that may have projects that would increase the collection of spring flows for fish production and develop an approach to review business practices to reduce costs of production, or other efficiencies of operations, that would help offset the lack of spring flows; and*
 - c. *Ensure that its policies and procedures facilitate and support the goals and objectives of this Executive Order.*
4. *The Department of Agriculture, in consultation with the Governor, shall immediately:*
 - a. *Provide assistance by developing marketing strategies for the aquaculture industry; and*
 - b. *Ensure that its policies and procedures facilitate and support the goals and objectives of this Executive Order.*
5. *The Department of Agriculture, the Department of Commerce and the Department of Water Resources shall jointly report to the Governor in 60-day increments on the progress of implementation of the above-described actions and on the actions taken by the executive departments to comply with the directives, purpose and intent of this Executive Order; and*
6. *All Idaho businesses, governments and citizens are encouraged to participate in efforts consistent with this Executive Order.*

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in the City of Twin Falls on this 26th day of March in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-eighth and of the Statehood of Idaho the one hundred fourteenth.

A handwritten signature in black ink, reading "Dirk Kempthorne".

DIRK KEMPTHORNE
GOVERNOR

A handwritten signature in black ink, reading "Devin Isurua".

DEVIN ISURUA
SECRETARY OF STATE